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Chair

Mrs. Bernadette Jordan

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● (0845)

[*English*]

The Chair (Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.)): Good morning, everyone. Welcome to the 100th meeting of the Standing Committee on Fisheries and Oceans in the 42nd Parliament. Pursuant to order of reference on Monday, April 16, 2018, we're studying Bill C-68, an act to amend the Fisheries Act and other acts in consequence.

Today for the first hour we have with us, from the Fisheries Council of Canada, Paul Lansbergen, president; from the Forest Products Association of Canada, Kate Lindsay, Director, Environmental Regulations and Conservation Biology; and via teleconference we have Bernie Berry, President, Coldwater Lobster Association.

Also with us today we have Cathay Wagantall from Yorkton—Melville. Thank you for joining us today.

We have the Honourable John McKay from Scarborough—Guildwood. Thank you for coming. I hear you say it's the centre of the universe, but I challenge you to come to Nova Scotia.

We will get started with our first witness today from the Fisheries Council of Canada, please. Mr. Lansbergen you have 10 minutes.

Mr. Paul Lansbergen (President, Fisheries Council of Canada): Thank you very much.

Thank you for the opportunity to be with you this morning. Bill C-68 represents a significant modification of the Fisheries Act and will have long-standing implications for the sector and the health of our oceans and fish resources.

Before I get into specific comments on the bill, I would like to spend a few minutes to provide some context about the council, the sector, and the policy reality in which we currently find ourselves.

The Fisheries Council of Canada is the national voice for Canada's commercial fisheries. Member companies are processors who process the majority of Canada's fish and seafood production. Our members include small, medium-sized, and larger companies, as well as indigenous enterprises that harvest fish in Canada's three oceans and inland waters.

Canada is a global leader in sustainable fisheries management, with 80% of our Canadian wild seafood production, by value, being certified by the Marine Stewardship Council. This figure is in contrast to the only about 10% of the world's fisheries that are certified. The Canadian seafood industry creates 80,000 direct jobs, mainly in coastal and rural communities, and accounts for $7 billion in exports to 139 countries in the world. Our largest export markets are the U.S., China, the EU, and Japan.

The council is looking towards advantages created by such recent free trade agreements as those with South Korea, the CETA, and the CPTPP. Growing global demand for protein, including fish and seafood, points to more growth in Asian markets and elsewhere. In addition to trade opportunities, we have opportunities to realize more value from what we harvest today. A recent study has indicated that the sector is missing out on $600 million of additional revenue annually. These growth opportunities provide important context for my remarks today.

The most significant policy issue facing the sector is a concern about stability of access to the fishing resource. Recent actions and announcements from DFO have undermined the sector and therefore undermined the economic growth of Canada's coasts. Taking away long-standing licences and quotas does not respect past investment, has eroded the sector's confidence to invest, and could undermine conservation efforts.

This is not an issue for just one part of the sector. There are two reasons for this. One is that the concern is widespread. The second is that the supply chain is highly interdependent. For example, fish harvesters rely on their local fish processor to purchase their catch in order to bring their products to market. With the growth opportunities I mentioned a moment ago, we need to accelerate investment to extract more value from what we harvest and process. Much of this growth will only be realized by investments in new technology and practices. This and other growth opportunities won't be achieved in the absence of a clear and stable policy framework. Unfortunately, such is currently lacking in Canadian fisheries.

This concern also creates a lens through which the sector views Bill C-68 and the pending regulations, under new authorities provided by the bill. FCC views positively the habitat provisions that have been restored. These provisions have undergone significant consultation through the committee process. However, there are a number of other broad changes contained in the bill, particularly the new regulations, that could benefit from more thorough consideration.

Given the enabling nature of the bill, the council reserves judgment on the bill pending the development of the regulations authorized, which could take up to three years or more to be completed. Having said that, I would like to highlight three key messages. Our submission goes into more details and provides commentary on a number of the regulatory provisions, if you're interested.

The first is that FCC would like a better reference to the use of fisheries as part of the purpose of the act in proposed new section 2.1. As part of the 2017 consultations, we submitted the following:

> 'Sustainable Use' has been the primary implied principle of the Fisheries Act since its inception, and this primacy must be maintained/strengthened in any revised Act; care must be taken that the introduction/drafting of any additional principles/purpose etc. not diminish this primacy.

It is not clear that this has been achieved in Bill C-68. The first element of the purpose in proposed paragraph 2.1(a), "the proper management and control of fisheries", is quite broad. Case law is clear that the minister can make decisions based on a wide range of considerations. The use of fisheries is missing in the current wording of the bill. FCC asked the committee to consider this, as participants in the fisheries sector and their communities rely on the economic benefits from Canada's fish resources. It is paramount that such use of our resources be sustainable. Failing to do so will only lead to economic hardship in the future and undermine the vital role this sector plays in Canada's coastal economy.

● (0850)

FCC submits for consideration an amendment to the purpose clause that would make explicit the sustainable use of fisheries as the primary purpose of the act. The wording we propose in proposed section 2.1 is that the purpose of the act is to "(a) ensure the sustainable use of fisheries; and (b) provide a framework for (i) the proper management and control of fisheries; and (ii) the conservation and protection of fish habitat, including preventing pollution." This is in our submission. Essentially, we have inserted a new paragraph (a) and have moved the rest down.

My second message is related to indigenous participation and co-management. Bill C-68 provides significant new authorities relating to indigenous participation in and co-management of fisheries. Co-management agreements are authorized by the new proposed section 4.1 if provisions are deemed "equivalent" to provisions in the act. However, there is currently no legal test for equivalency in this context. Moreover, both the act and the bill fail to set any considerations that the minister or Governor in Council must—or may—consider when determining equivalency. This applies in terms of equivalency in provision and its administration or enforcement. Of particular concern is a potential for different management regimes across different fisheries, which could potentially negatively impact the sustainability of our fisheries resource.

According to the Ahousaht case in B.C., bilateral negotiations of what the fishing right means in practice are unacceptable. DFO does not represent the interests of other sector participants, such as commercial or recreational fisheries, and these interests must be included. The FCC believes there needs to be a clear process for involvement of other impacted stakeholders in co-management negotiations and a process in place to avoid a patchwork approach to the management of a resource that undermines overall sustainability.

In the same case, the crown testified that it is willing to use the allocation transfer program and the Pacific integrated commercial fisheries initiative to increase indigenous participation in fisheries. Moreover, Madam Justice Humphries stated:

> Canada takes the position that access under PICFI and ATP is relevant to the access provided under the right, in particular because reconciliation is achieved through voluntary relinquishment of licences by commercial fishers. It is not necessary and is unhelpful to the principles of reconciliation to move to involuntary relinquishment of licences by the commercial sector.

Unfortunately, this is not the approach that has been taken in the surf clam fishery. A lack of clear criteria and policy has created a climate of uncertainty and instability in the fisheries management. The FCC strongly believes the government needs to adhere to a willing buyer, willing seller policy, as it has done historically.

My third message relates to the many regulations authorized by the bill. FCC looks to how these regulatory provisions can contribute to greater stability of access and thereby instill confidence to invest and support conservation. At the same time, FCC has cautions in terms of the government's ability to anticipate how the sector will evolve over time—quite frankly, I don't know if anyone can. Smart regulations will provide flexibility to accommodate the ongoing evolution of the sector.

FCC hopes this legislation and its subsequent regulations will provide a clear and stable policy framework that will facilitate and enable the fisheries sector to be prosperous long into the future. We look forward to continuing the dialogue with the government and parliamentarians on the details of the bill and subsequent regulations.

With that, I welcome any questions you might have. Thank you.

● (0855)

The Chair: Thank you very much.

We will now move to Kate Lindsay, Director of Environmental Regulations and Conservation Biology for the Forest Products Association of Canada, for 10 minutes, please.

Go ahead.

Ms. Kate Lindsay (Vice-President, Sustainability and Environmental Partnerships, Forest Products Association of Canada): Thank you.

Thank you for the opportunity to provide our perspective as you review Bill C-68, an act to amend the Fisheries Act. I am here today representing the Forest Products Association of Canada, or FPAC.

FPAC is a voice for Canada's wood and pulp and paper producers nationally. Canada's forest industry employs over 230,000, and operates in over 600 communities from coast to coast. FPAC members manage forests on over 90 million hectares of land across Canada. This is primarily done on provincially managed land. All FPAC members are third party certified to one of three independent certification standards—the Canadian Standards Association; the Sustainable Forestry Initiative, SFI; or the Forest Stewardship Council, FSC.

The forest sector engages in planning for sustainable land use. We develop long-term forest management plans that include aquatic and terrestrial habitat and biodiversity objectives utilizing stakeholder input, science-based approaches, and engagement with local communities and indigenous communities.

When we appeared in front of this committee in December 2016, we spoke to the robust provincial regulations that forestry operations must comply with as well as the third party audited certification regimes that all FPAC members are certified under.

Specific to Bill C-68, I would like to identify current amendments that we notionally support, and identify a number of current amendments that will require further consideration.

To begin with, FPAC is supportive of the provision to empower the minister to establish advisory panels. In particular, we encourage these advisory panels to have individuals or organizations that have experience as proponents. In addition to a formal advisory panel, I would suggest earlier informal multi-interest advisory capacity in the development of the regulations and policies.

Second, FPAC is supportive of "agreements" as referred to in proposed subsection 4.1(1). Our strong recommendation is that equivalency agreements are pursued and recognized between provincial governments, indigenous governing bodies, and DFO to provide for more efficient and effective implementation of the regulations. This will require DFO to prioritize the development of regulations in which equivalency with other jurisdictions could be assessed in the short term, prior to coming into force. Provinces have continued to revise and standardize their own laws, regulations, and guidance for fish and fish habitat over time. We believe this would support efficient and effective policy implementation.

Third, FPAC supports and encourages DFO to recognize robust standards and codes of practice, as referred to in proposed section 34.2(1). Our member companies adhere to regulatory requirements under provincial and federal laws, and in addition employ practices —referred to as best management practices or standard operating procedures—to avoid or mitigate harm to fish and fish habitat. This due diligence that the forest sector employs towards fish and fish habitat has continued to be in place pre- and post-2012. In fact, our standards and operating procedures with respect to fish and fish habitat have continued to improve through the implementation of environmental management systems, forest certification, and evolving provincial regulations.

The vast majority of the work or projects that the forest sector engages in near fish habitat are watercourse crossings—culverts and bridges. New innovations and continual improvement inform our standard operating procedures. For example, in the 1990s and early 2000s, through partnership work with DFO and the development of the operational statements, forest companies have widely transitioned to using such new technology as clear-span bridges for fish streams. These crossings have much better environmental performance than the older technology used previously, 15 years ago.

FPAC, professional foresters, and professional biologists working within our member companies and provinces continue to work with technical experts, such as FPInnovations, the National Council for Air and Stream Improvement, and partners like Ducks Unlimited, on implementing best practices. These practices address sediment and erosion control, culvert and bridge design and maintenance, integrated road access, and the maintenance of hydrologic and aquatic ecosystem function in areas where we operate.

● (0900)

We strongly encourage DFO to work with us to establish and recognize existing codes and standards with robust effectiveness monitoring programs, such as forest certification, to recognize the practices that avoid harm to fish and fish habitat.

While I'm on the topic of forestry certification standards, I will state that relevant requirements within the certification standards speak to protection of riparian areas—areas adjacent to permanent waterways—the protection and maintenance of sites that are biologically or culturally significant, the use of ecosystem-based management practices, and the development of long-term research and monitoring programs focused on biodiversity.

Now I would like to identify a few components of Bill C-68 that we believe require further consideration or clarification, as they pose potential concerns with regard to how they may be implemented.

The first is the amendment referred to in proposed subsection 35.2 (1) on ecologically significant areas. Although we notionally support the identification of such areas, we want to see science, knowledge, and agreed-to processes developed to identify such areas.

The second is a general concern with the capacity of DFO to implement and enforce potentially expanding provisions while developing aquatic health baselines and monitoring cumulative effects moving forward.

We also want to identify the significance and challenge of climate change impacts, and would hope the department builds an understanding of watershed changes due to climate change. There may be other federal departments, such as Natural Resources Canada, that can contribute significant knowledge and expertise on climate change impacts, as well as adaptation practices. We recognize an increase in DFO funding announced recently in the 2018 budget, but we encourage the committee to consider the scope and ability of the department to implement the proposed act. We are hopeful that DFO will receive the necessary support to conduct this type of cumulative effects monitoring.

In summary, we encourage the minister and department to draft regulations that would enable equivalency agreements. We encourage the minister and department to establish multi-interest advisory capacity in the short term and to develop and recognize codes and standards. There is an opportunity for government to recognize the continued research and implementation in improving BMPs and in adapting practices on an ongoing basis, as well as the robust indicators and effectiveness monitoring programs established through third party audits.

We encourage that appropriate transition time and instruments be thought through to ensure that responsible proponents have a clear process identified while the necessary regulations and policy are developed.

Thank you again for the opportunity to provide feedback on this important topic.

I welcome your questions.

The Chair: Thank you very much, Ms. Lindsay.

We will now be moving on to Bernie for 10 minutes, please.

Mr. Bernie Berry (President, Coldwater Lobster Association): Thank you, Madam Chair, for the opportunity to present today in front of the Standing Committee on Fisheries and Oceans.

My name is Bernie Berry, and I am President of the Coldwater Lobster Association, which is located in southwest Nova Scotia. Our association represents lobster fishermen who ply their trade in lobster fishing area, LFA, 34.

LFA 34 is the most lucrative lobster fishing area in Canada. LFA 34 has approximately 970 licence holders, and the landings for the 2016-17 season hover around 50 million pounds. Landed value is in the range of $350 million to $370 million, and this fishery is MSC-approved as are all Canadian lobster fisheries.

The lobster fishery in southwest Nova Scotia is the main economic influence on the economy in the region. The strength of the lobster fishery in southwest Nova Scotia comes from the fact that the vast majority of licence holders are independent. This leads to the spreading and sharing of the wealth that is harvested from the sea. The stock is very strong and plentiful because of the stewardship that fishermen have demonstrated over time.

For these fishermen, and the communities they support, continued independence of the fishermen is a must. The lobster licences must remain in the control of these small independent business owners, the fishermen themselves. This will allow for the continued success, not only of the lobster fishery but also of the rural communities. The licences must remain independent to support the next generation of lobster fishermen, and to allow them to have the opportunity to continue the success of the previous licence holders.

Coldwater Lobster Association believes one avenue to achieve this is through the Fisheries Act. The owner-operator, fleet separation, and PIIFCAF, the acronym for preserving the independence of the inshore fleet in Canada's Atlantic fisheries, could and would be enhanced by making all these policies part of the regulatory regime and/or a condition of licence.

The result of an initiative like this would be the elimination of corporate infiltration into the lobster sector. The policies would now be regulations, and the penalties could be more substantial and applied in a timelier fashion for the instigators trying to circumvent the regulations. If properly designed and installed as a regulation, decisions could be made on a case-by-case basis at a regional level, and possibly an area level of DFO enforcement.

An area that is not covered very well in the Fisheries Act is the potential of foreign ownership of fishing licences and fish-buying licences. As the rule now applies, companies that have Canadian fish-buying licences for various species of fish must be 51% Canadian owned and controlled.

Unfortunately, this is not monitored or overseen very closely, and any good law firm can disguise the true ownership of these companies. This leads to foreign control, not only of a company but the quota and access to numerous Canadian fish stocks. The profits and benefits from a Canadian public resource are siphoned off to individuals and boardrooms abroad.

Coldwater Lobster Association believes that the benefits of fishing licences should flow to the harvesters who hold the licences and also to their coastal communities. The product caught by the fishermen, once on land, should also be used to enhance the economic viability of these rural communities.

A problem that is not being addressed is the generational turnover of fishing licences to a new set of young entrepreneurs. The main difficulty that is being encountered by the potential new independent licence holders is obtaining financing.

With the success of the present independent licence holders, the value of fishing licences has increased substantially in the last couple of decades. The average age of lobster licence holders in LFA 34 is approximately 55. Almost half the licences in LFA 34 will possibly change hands in the next 10 years for various reasons. The new entrant needs financial help in acquiring these valuable lobster licences to kick-start their career as a new entrepreneur in the community.

● (0905)

Coldwater Lobster Association believes that in order to have a smooth transition into the next generation of fishermen, it will take a collaborative approach from the federal government and some of its departments, such as ACOA, DFO, Industry Canada, the provincial government through its fisheries loan board, and chartered banks along with the industry itself to come forth with a suite of options for the new entrant to choose from to obtain financing.

Any type of backlog or slowing of this transition from the older generation to the new independent small business owner will have a dampening economic effect on the industry and the communities it supports.

Coldwater Lobster Association appreciates the time the committee has afforded our organization to speak on this very important issue, and we hope to be back in the future, because the lobster fishery is evolving quickly and there are numerous challenges ahead that will need to be discussed with all involved.

Thank you again.

● (0910)

The Chair: Thank you, Bernie.

It's a little bit difficult to see if you want to chime in on anything, because you're on the phone, but if there's ever a question put forward that you may want to answer, just indicate that you have a comment on it. That would be great.

Mr. Bernie Berry: Yes, absolutely.

The Chair: Okay, thanks.

Pursuant to the motion adopted on May 1, 2018, the round of questions will be five minutes for all parties. We can get through two rounds each, so it looks as though we'll each get 10 minutes.

For the first five minutes, we're going to go to Mr. Finnigan.

Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.): Thank you Madam Chair.

Thanks to all our witnesses here this morning for helping us to go over Bill C-68.

I'll start with you, Mr. Berry, since your opening remarks are fresh for us. It's not hard to see that you favour the owner-operator. We've had many discussions here at the committee about that. Are you happy with how the strengthening of that portion of the act has evolved? Are you okay with that? Are there any hitches you can see?

Mr. Bernie Berry: It is an improvement to what was in place. The key is, hopefully by this coming fall, that a lot of this stuff will be ironed out, passed into law, and stuff like that. I think what the minister and the department are trying to do will have a positive effect on keeping these fishing licences in the hands of independents.

Mr. Pat Finnigan: Thank you.

You also mentioned the generational turnover. As you said, the price of those licences has skyrocketed to a point where even though it's a lucrative fishery, not many banks will finance newcomers. How do you propose that we try to fix that?

I'm going to throw out something to which you're probably going to say "absolutely not". Should the government own those licences and not put a value on them? I'm not saying that for right now, but is that a way to move forward? The fisher would not have that licence or a value attached to it. I'm just going to throw that out and see what you think about it.

Mr. Bernie Berry: I don't think we can take that approach now. There's been too much water under the bridge. What you're talking about is basically what goes on, for example, in the main lobster fishery, where the government owns the licence and when the gentleman is ready to retire, it's just given back to the government and a new entrant is picked through almost a random draw. Unfortunately, that's not the system we have, so I don't think we're going to replace that, for various reasons.

A lot of the people who are in the fishery now are the reason this fishery is worth so much. They've worked hard. For most of the fishermen now, these licences are part of their retirement package. So you'd have to address that on both sides, not just with the people getting in but also with the people getting out.

I think the key is that, at least for the young individuals, if all the parties involved—as I said, federally, provincially, and the industry itself—come up with some sort of a plan to get the young guys into..... The big stumbling block, I guess, is the down payment or the money up front and stuff like this. Most of the younger gentlemen wanting to get into it are 25 to 30 years of age, and that's a steep.... I'll speak only for LFA 34. To get a down payment for an outfit that would include a boat, licensing, and gear in LFA 34, you're going through the chartered banks, and they require 25% to 30%. That amounts to about $300,000.

Mr. Pat Finnigan: Thank you, Mr. Berry. I agree. I just wanted to hear your thoughts on that.

Mr. Lansbergen, you mentioned the voluntary transfer of licences to indigenous. How do you think that would work? I'm just curious. Voluntary doesn't usually lead to much, as far as I'm concerned. I'd like to have your answer on that.

● (0915)

Mr. Paul Lansbergen: The government already has a program for "voluntary relinquishment", to use the government's language from the B.C. case. It's the willing buyer, willing seller approach.

There are some questions. How willing is the seller if they're not given much of an option? If the government wants to reallocate a certain fishery for reconciliation, then it should come to that fishery, to the participants, and talk to them about what amounts would be desired for reallocation. Perhaps the fishery participants themselves can figure out who may want to exit and who may want to sell to the government, but giving participants no choice I don't think is the best approach.

Mr. Pat Finnigan: Quickly on forestry, I know that a lot of the clear-cuts warm up the springs that flow into the river. We have major issues on the Miramichi with the salmon. Part of it is due to that. Can you give us a quick view of that?

Ms. Kate Lindsay: I think you're referring to riparian...?

Mr. Pat Finnigan: Yes.

Ms. Kate Lindsay: In forestry operations, for all major operators in Canada, including eastern Canada—we've done some audits of Atlantic Canada—the width of the buffers that companies are leaving maintains stream temperature for fish and fish habitat. I can share that with you.

The Chair: I'm sorry. I have to cut you off there and go for our next five minutes to Mr. Arnold.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Thank you, Madam Chair, and to all three of you, thank you for being here and on the phone.

Mr. Berry and Mr. Lansbergen, perhaps both of you can answer this question.

I've heard concerns from fishermen about their grown children wanting to take over their parent's fishing licence and being unable to do so because there are multiple siblings involved and the licence has to held by one individual licence-holder. They aren't able to form a corporation, because a corporation isn't able to hold a licence. Can you elaborate on any of this that you've heard and the possible solutions for it?

The Chair: We'll start with Mr. Berry since he's on the phone, if that's okay, and then we'll go to Mr. Lansbergen.

Mr. Bernie Berry: I think that is the case. It's simply the rule that a licence can only be held by one person. It's something that we have to contend with. I don't think cases like this actually come up very often, where you have numerous sons and/or daughters who want to share in a licence. Usually, it's fairly straightforward. I'm not saying that it doesn't happen, but it's just simply the case that only one person can have the licence in their name at one particular time. Again, on a case-by-case basis, that's something we'd have to look at.

Mr. Paul Lansbergen: Quite frankly, our membership really hasn't discussed the details of that particular provision, so I don't have a comment at this time on that one.

Mr. Mel Arnold: Thank you. I think it's something that needs to be looked at, because I have been approached by fishermen and their families with that issue.

Ms. Lindsay, you spoke about the equivalency of regulations. This is something that came up in our last meeting as well. It's about the pancaking of different layers of regulations between federal and provincial levels, and now with possible indigenous co-management in there as well.

Can you describe some of the potential pitfalls of that? I come from B.C. We lived through the Forest Practices Code in the 1990s in B.C. and saw a volume of conduct codes that basically stood three feet high on a desk. Can you explain some of your concerns or how there may be some issues with the bill?

Ms. Kate Lindsay: To address some of those concerns, I think equivalency agreements should be looked at, and not as an afterthought but a priority. I believe that provinces have strengthened their regulations in the interim and have been building them such that they could be deemed to be equivalent with the Fisheries Act. I think that's smart policy. I think it's policy coherence, which is something that we recommend.

Instead of a piling on of various levels, we'd rather have a robust assessment to see if the B.C. riparian area regulations in the fish protection act provide the ability to deem equivalence with DFO moving forward. I know that Quebec is also looking at having a one-window approach, but we need the federal legislation to have that regulatory enabling mechanism. I would prioritize that DFO look to develop those regulations so that they can deem equivalency where it exists, to reduce the regulatory burden on proponents but also on DFO staff on the ground everywhere.

● (0920)

Mr. Mel Arnold: Thank you.

I have one minute.

Mr. Lansbergen, we've talked briefly offline, but I'd like to bring it online here. It's regarding the decision on the west coast with the Ahousaht Nuu-chah-nult decision and the rights that are being recognized.

How do you see that playing out across the rest of Canada at this point, and how might that have an effect? We've already heard that it could affect the Pacific salmon allocation policy, and so on. Could you elaborate?

Mr. Paul Lansbergen: Sure.

I think it's still a little early to try to describe the full implications of that decision, but I think it does set some precedents that will go beyond the salmon policy. The fact that for co-management negotiations the court said other impacted stakeholders must be involved in those negotiations, I think that is something that would apply across the country.

That's the quick answer. I think it is so complex that there is much more to dive into to figure out.

The Chair: Thank you, Mr. Lansbergen.

Now we're going to go to Mr. Donnelly, please, for five minutes.

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Thank you, Madam Chair, and thank you to all our witnesses for being here and providing your testimony on Bill C-68.

Mr. Berry, you talked about the owner-operator principle. We had some young fish harvesters from the west coast in front of the committee, and they were very passionate about this principle and idea of owner-operator. They were passionate about having fisher harvesters who actually fish being the operators, as opposed to investors who make it more costly or cost prohibitive for some, especially new entrants like them, to get into fishing.

Can you provide any advice from your perspective? You mentioned off the start in your testimony, your successful area in LFA 34. Is there any advice that you could give the west coast?

When Mr. Finnigan was asking you some questions about whether you could envision change, I think your comments about the situation were important. If you look at the west coast, we're faced with the ITQ system, so moving to owner-operators is pretty tricky. Is there any advice that you could provide?

Mr. Bernie Berry: Mr. Donnelly, I think that unfortunately B.C. took a different approach...or the federal government actually took a different approach back in the seventies when they announced the owner-operator fleet separation. It restricted it to the Atlantic coast and didn't include the west coast. Unfortunately, over time, I think there has been a loss of independence on the west coast. I think it's going to be a hard slog to get it back to a majority of independently owned out there, because it's so ingrained now in corporate quota-owned fisheries, and stuff like that.

That's what we're trying to guard against on the east coast here. There are some fisheries that are quota based, but the main fisheries, like lobster, crab, and some of the smaller ones, are still independent. That's why we're trying to fight to keep it that way, because we think it's the only way to go in the future to enhance our communities.

Again, for the young gentleman out west, I think it's going to be doubly hard. They're going to have to overturn a regime that's been in place for 30 years, the quota regime, and people owning quota who are not on the water, or maybe not even in the province, and stuff like that. I wish him the best, but they're starting from a very, very negative position.

Mr. Fin Donnelly: I agree, and I thank you for your comments.

You also talked about foreign ownership. That was a bit of a hint about how the government could at least look at how foreign ownership is playing an increasing role in the fishery. You mentioned that the government is not even monitoring foreign ownership.

Could you talk a bit about how the government might monitor or better monitor foreign ownership?

● (0925)

Mr. Bernie Berry: From our perspective, when some of these larger companies are joining forces to access product, I think some of the agreements and deals they've done simply have to be looked at more closely to see who is controlling that company.

Like I said, it's a very tricky situation because it gets into legal matters and all this stuff. I know that in our industry, the lobster fishery, the companies just above the harvesters are becoming larger and larger. They're buying one another out with a lot of foreign involvement, we think. Not just the Asian companies but even the American companies are being very aggressive. They're really trying to secure the product and we see that as a real detriment because, over time, if that's allowed to happen, foreign ownership or not, it's going to create a bottleneck effect in the supply chain. You're going to choke off possible good prices on the shore because the larger companies are simply going to be able to dictate to the fishers what they can and cannot get as a fair shore price.

Mr. Fin Donnelly: Great. Thank you very much for your testimony. I really appreciate it.

The Chair: Thank you.

We're going now to Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Madam Chair.

Good morning to all the guests.

Mr. Lansbergen, I'm going to focus my questions your way and preface this by suggesting we to get together offline and have a deeper discussion on some of the issues.

This bill sought to change an approach taken by the previous government, which focused on the commercial, recreational, and aboriginal fish. The fish that were important to those sectors were the ones that would be most protected. There were a lot of people who thought that the habitat needed more attention, which is one of the things we've brought back in this.

I think there's an analogy here to the communities. On the west coast, we're dealing with the economics of it. We have economies of scale, but I think we may have reached a tipping point where we're actually dealing with cartels out on the west coast. The impact on communities appears to be negative and troubling.

I wanted your comment on some research done on the change in landed value from 2000 to 2015. This research was done by the Canadian Council of Professional Fish Harvesters. In Atlantic Canada, the landed value of their catch went up by 59% from 2000 to 2015, and the actual landings were lower in 2015 than they were in 2000. In Alaska, the change in landed value over that period was 84%, with the amount being landed about half that percentage, but it was an increase. In British Columbia, however, the landed value has gone down by 4% over that time, and the amount being landed has also gone down.

Why, in your opinion, is the B.C. industry underperforming compared with its neighbour and its counterpart in eastern Canada?

Mr. Paul Lansbergen: That's a very good question. First, I would look at what species are being caught, what value they have in the marketplace, and how this has changed over the years. That may provide part of the answer. But I don't know how different that would be, particularly between Alaska and B.C. I think between Atlantic Canada and B.C., there may be more landings in shellfish, which have a higher value, so that might represent the increase in value on the Atlantic side. But quite frankly, I don't know enough to give you much more of an answer on that. I noticed, however, that later this morning you will be hearing from some colleagues—

● (0930)

Mr. Ken Hardie: Yes, I understand that.

Mr. Paul Lansbergen: —from B.C., so you could ask them perhaps.

Mr. Ken Hardie: Thank you.

You mentioned that harvesters have to rely on local processors. Tell us, then, if you will, why the largest processing plant in B.C., in Prince Rupert, was shut down and all of that work was transferred to Alaska. How does that work in the interest of B.C. fishers?

Mr. Paul Lansbergen: I don't know the specifics of that particular plant, to be able to say why it closed and why it transferred to Alaska. Some things that do happen in the economy are unfortunate, so I really can't comment on—

Mr. Ken Hardie: This brings us full circle, and I'll conclude with this.

The fact is that we're treating fishing as a commodity and we've maybe traded off a little too much in terms of community. You yourself mentioned how important fishing is to the small communities up and down our coasts, but it seems that those communities in British Columbia, relative to their neighbours and their counterparts, have suffered quite substantially, and I think we need to get to the bottom of this. That's not to say that we have to overturn the current system; maybe it just needs refining. We don't know yet but it's worth a look, and I can promise you there will be a look at it.

Mr. Paul Lansbergen: I would agree with you that it needs further investigation as to why and how things may progress in the future. I would challenge that I'm not sure how well any of us will do in trying to predict the future. From the forest industry and the experience I have there, I know the provincial governments have tried to dictate a certain industry structure and ultimately failed. I don't know if the government—

Mr. Ken Hardie: We know that is attributed to very powerful lobbying efforts versus—

The Chair: Thank you, Mr. Hardie. That's your five minutes.

We're going now to Mr. Miller, please, for his five minutes.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thank you, Madam Chair.

Thanks, witnesses.

Bernie, there are a couple of things I want to ask you about. You mentioned the potential of foreign ownership of licences. Is that a big problem, or is it just a potential?

Mr. Bernie Berry: Right now it's not a big problem, especially on the fishing side. We don't believe that fishing licences are being foreign controlled. There are some mechanisms now in place to stop that. Again I go back to our concern, the buy-in sector of the industry. If that is taken over by foreign ownership, like a lot of other industries, the wealth will just leave the shore and—

Mr. Larry Miller: I get that. I just was trying to figure out if it was a current problem. It appears it isn't at this point.

You mentioned young fishermen. The previous government put in a plan for young farmers or new entrants to agriculture. Obviously, government can't step in and buy these licences and that kind of thing, and I can't remember everything that's in this beginning farmers program, but one of components was basically starter loans at a cheaper interest rate. Is this something that would benefit young fishermen moving into the business?

Mr. Bernie Berry: Absolutely. I think that's what we're looking for because other industries—as you point out, the agricultural industry—have systems like that in place, even at a provincial level. Even with our provincial government, there are things in place for young individuals wanting to get into farming, grants and so on, but nothing in the fisheries loan board side. It seems as if, for whatever reason, the fishing side's been forgotten.

Mr. Larry Miller: Thank you. I'm running out of time.

I want to move to Mr. Lansbergen. You mentioned that it's not necessary and is unhelpful to the principles of reconciliation to move to involuntary relinquishment of licence by the commercial sector. With what happened in the surf clam licensing, where a percentage of it was taken away from Clearwater, that would appear to me not a willing seller. Would that be a good example of what you were meaning by that statement?

Mr. Paul Lansbergen: That statement is the words of Madam Justice Humphries, in her description of what the crown argued in that case, so that's the crown's words, not my words. But yes, you're right. I think it does contrast with what happened in the surf clam licensing.

● (0935)

Mr. Larry Miller: Thank you.

Ms. Lindsay, you said you supported advisory councils and what have you, but you also said, "We strongly encourage DFO to work with us". The way you said that implied to me that maybe DFO has not been that great to work with. Could you expand on that a bit?

Ms. Kate Lindsay: Sure. I guess I have the privilege of being on advisory committees for other pieces of legislation, one being the Species at Risk Act, so I've found that there is an advisory committee through the implementation of that act, and it's been quite productive. I think there are opportunities to bring multi-interest groups together to have some of those difficult discussions, and we would encourage DFO to do that in the short term. I understand it takes time to bring about a formal advisory committee. Usually it's ministerial appointments, and that takes time, but I would say even in the short term that there is a group of willing industry associations, non-government associations, and indigenous organizations that could get together to help provide that advice.

Mr. Larry Miller: Okay. What I was trying to get was with regard to DFO, and whether you're able to work with DFO, but I'm going to move on because of time.

You also mentioned ecologically sensitive areas and expanding provisions. Could you enlarge on what you meant by that statement?

The Chair: You have thirty seconds, please.

Ms. Kate Lindsay: Okay.

I want to emphasize that, without having the regulations written out in detail, the enacting legislation proposed in this bill would expand provisions currently. It would go back to all fish and the HADD definition that was previously there, and then also to the concept of cumulative effects monitoring, as well as identifying ecologically significant areas.

Mr. Larry Miller: Are you in support of it?

Ms. Kate Lindsay: Some of it, if it's done well. We would like to be part of an advisory capacity in developing those—

The Chair: Thank you, Ms. Lindsay.

Mr. Donnelly, you have five minutes, please.

Mr. Fin Donnelly: Thank you, Madam Chair.

Mr. Lansbergen, again, I want to talk about the owner-operator principle. We had, you know, some young people from the west coast who were talking about how important that is. I just asked Mr. Berry about how maybe the east could provide advice to the west because it is a very different system. Certainly, this government is looking at strengthening, at least on the Atlantic coast, the owner-operator principle.

How would you see it if that move happened on the west coast? Is there a perspective that you would see your association taking if the owner-operator principle was to be strengthened on the west coast in any way?

Mr. Paul Lansbergen: Quite frankly, we haven't discussed it in detail. With my shorter tenure here so far in the fisheries sector, I don't have a good answer for that. I'm happy to discuss further.

As I said earlier, one of your witnesses in the next hour may be able to provide a better response for you on that one.

Mr. Fin Donnelly: Okay, thank you.

In terms of first nations, we had the Skawahlook Nation here at committee, and they were talking about the importance of UNDRIP and free, prior, and informed consent, FPIC. Does your association have a position on...? I mean, you referred to co-management and, I think, the Nuu-chah-nulth decision recently, and other court case decisions.

Do you have a position on UNDRIP and how free, prior, and informed consent can play a role in fisheries in Canada?

Mr. Paul Lansbergen: With regard to that particular thing, no, we have not discussed that as of yet. Unfortunately, when you are coming new into a sector and an organization, there are only so many issues you can talk about with the hours of the day, but that is something that, going forward, we'll need to talk more about.

I did indicate that my membership does include indigenous enterprises, particularly in Nunavut. Right now, I think we do have a very common view within the membership on some of these issues, but we just haven't been able to discuss all the details.

Mr. Fin Donnelly: In terms of aquaculture, does the council have a position about new technology that is emerging in markets? I am specifically talking about RAS, recirculating aquatic systems. That technology, certainly in the United States, is having an impact in the aquaculture industry, and it's being looked at in British Columbia. It's being used, certainly, in Nova Scotia and Atlantic Canada, where there are a number of facilities using RAS technology.

Do you see the act covering new technology in the fishing industry as a good thing, or as enhancing and allowing for new technology to play a role?

● (0940)

Mr. Paul Lansbergen: Unfortunately, I think I'm going to be not as helpful to you as you would like.

With respect to aquaculture, we don't represent that part of the sector. I don't know enough, really, to say what technology is better than another. I know that the aquaculture sector would like to see its own act because it doesn't seem to fit well within the Fisheries Act.

I think that how the act influences how the sector will want to invest in technology, whether it be aquaculture or wild capture, is an important element that we need to think about. That might come into play more in the regulations than in the act itself, given that it is enabling.

Mr. Fin Donnelly: I think you make a good point that a lot of the operators are looking for a separate act. We just had a report recently released by the environment commissioner, who was talking about that dual role that DFO has to monitor. Its mandate is to look after wild salmon and wild fish, but it's also to promote aquaculture and farmed fish. It has that problem. A separate act might alleviate, or hopefully, address that issue.

Thank you very much.

The Chair: That's the time. Thank you very much.

I would like to thank our first witnesses today: Mr. Lansbergen, Ms. Lindsay, and Mr. Berry.

Mr. Berry, it's always good to hear from you. Thank you for joining us this morning from Yarmouth.

We're going to suspend for a few minutes while we change panels. We'll be back in two minutes.

● _____ (Pause) _____ ●

● (0945)

The Chair: Welcome back to our second hour. We now have with us Monsieur Ayoub, member for Thérèse-De Blainville, and Sean Casey, from Charlottetown.

Welcome. Thank you for joining us for the next little while.

We're going to move on to our presenters for the second hour.

We have, from the Canadian Wildlife Federation, Nick Lapointe, Senior Conservation Biologist, Freshwater Ecology, and David Browne, Director of Conservation. We also have, by video conference, Chris Bloomer, President and Chief Executive Officer of the Canadian Energy Pipeline Association, and Sonya Savage, Senior Policy Director of Regulatory Affairs. By video conference, we also have the Seafood Producers Association of British Columbia, with Chris Sporer, Executive Director, and Christina Burridge, Executive Director of the B.C. Seafood Alliance.

We're going to get started. For the first 10 minutes, we have the Canadian Wildlife Federation.

Will you be splitting your time? Okay. Whoever is starting your 10 minutes can go ahead.

Mr. David Browne (Director of Conservation, Canadian Wildlife Federation): Thank you, Madam Chair, for the invitation to appear before committee today.

The Canadian Wildlife Federation supports much of what is proposed in Bill C-68, including support for the requirement to rebuild fish stocks, and strong support for the provisions that deal with modifying commercial fisheries to address impacts to marine mammals or marine biodiversity. However, our focus today is on the habitat provisions.

In our testimony before this committee in October 2016, we emphasized what we see as the goals of the fish habitat provisions: to protect fish habitat, to restore past harms, and to compensate for future losses.

With respect to protecting existing fish habitat, the act goes a long way to achieving strong protection. We are very pleased to see the creation of a public registry in the proposed amendments, though its scope should be expanded. In our opinion, Bill C-68 falls short on strengthening the fish passage provisions. We would like to see fish passage as a mandatory requirement with provisions for exemptions. Bill C-68 also falls short on dealing with minor works that cause harm. We will go into this in greater detail.

On the restoration of past harms, we are pleased to see the inclusion of language around habitat restoration, and to hear the minister say before committee that Bill C-68 will create a positive obligation for the department to work to restore fish habitat. To this end, net gain should be established as the goal of the fish habitat protection provisions. The strengthened requirements around offsetting will also contribute to restoration, especially if this is guided by watershed-level goals.

Finally, regarding compensating effectively for future harms to fish habitat, we are seeing broad agreement in testimony before this committee that Bill C-68 does not create a comprehensive legal framework for dealing with small projects, and that the act needs to be applied consistently and appropriately across all works that cause harm. To quote Mr. Pierre Gratton of the Mining Association of Canada on the cumulative effects of small projects, "these stresses cannot be addressed by focusing the department's attention on a few mining projects."

I would just modify that to say: a few major projects. Mr. Gratton stressed the need to address all works with residual harm, and he highlighted forestry, agriculture, hydro, and municipal works.

Small projects are the crux of the act. Successive governments have struggled to provide a regulatory and policy framework to Fisheries and Oceans that effectively and appropriately deals with the harm to fish habitat resulting from small projects. They are a major—if not the major—cause of fish habitat loss across Canada on a cumulative basis.

Several witnesses have brought up the example of works that clear shoreline vegetation, or the works of farmers and municipalities in routine clearing of drainage infrastructure such as ditches, channels, and retention ponds, as problematic areas of regulation. They have suggested that all of these activities in all locations do not require oversight, beyond guidance via a code of practice. We would disagree that such a blanket and hands-off approach can prevent significant impacts from such a wide range of activities.

I want to be clear that we agree that a code of practice with no requirement for compensation is appropriate for many types of water bodies and many types of activities on farmland or municipal land where harm can be avoided. But we have the science to classify water bodies and activities. We know that the department could specify which locations and which works do result in residual harm and do require oversight and compensation, in order to move toward a policy goal of net gain. In these cases, we argue that the act does not contain the tools to regulate and manage HADD from small projects.

I'll ask Dr. Lapointe to go into more detail.

● (0950)

Mr. Nick Lapointe (Senior Conservation Biologist, Freshwater Ecology, Canadian Wildlife Federation): Thanks.

We've heard so far under Bill C-68 that large projects will be managed either by permits as designated projects or by authorizations, and we support this. We've also heard that low-risk projects will be regulated by codes of practice, and we support this as long as they fully avoid harm, which DFO has clearly stated is the intent.

For example, CEPA is speaking next, and if a pipeline is placed under a stream using a horizontal directional drill without disturbing the stream bed, this should fully avoid harm and seems like a suitable candidate for a code of practice. But this still leaves out a third class of projects: the countless small projects that do cause harm, and it's really unclear how they'll be managed. We're deeply concerned that DFO intends to include projects under codes of practice that actually do cause harm, and this harm won't be compensated for.

Take stream crossings, for example. It's been suggested that properly designed stream crossings don't cause harm as long as they pass fish, but any biologist will tell you that blocking fish passage isn't the only harm caused by stream crossings. If we take the example of a culvert, there's infilling on each side of the culvert. If the culvert has a closed bottom, then it eliminates habitat in the middle of the stream. Then, of course, there's riparian habitat loss on both sides, which occurs basically for any stream crossing.

A culvert example is on the small end of the scale in terms of small projects that cause harm. Other examples of bigger projects that aren't currently addressed under the Fisheries Act include the expansion of wharves, piers or jetties, extending shorelines, and channelizing streams. Definitely anything that infills aquatic habitat leaves residual harm and needs to be compensated for because right now, when you put all of these projects together, the cumulative effect is a significant problem.

How are small projects that harm fish currently managed by DFO? Flat out, some aren't. Proponents self-assess and might not choose to even notify DFO even though there is residual harm. If they do submit a request for review, DFO's now established formal triage thresholds are based on perceived habitat importance. For example, proponents can destroy up to 100 square metres of "important" habitat or up to 1,000 square metres of low-quality habitat without triggering an authorization. What counts as important or unimportant is entirely subjective. It's definitely not based on science at this stage.

If the project is small enough, the proponent is given a letter of advice on how to proceed. The problem is that this letter is an extra-legislative mechanism. The projects aren't tracked, the conditions of the letter are not enforceable, and no compensation is provided for the residual harm of the project.

What do DFO scientists think about this? A group of them, led by DFO's chief scientist, published a peer-reviewed paper and concluded that to achieve no net loss, all projects that are not authorized need to result in zero death of fish or zero residual harm to habitat or an improvement to habitat, and this is not currently the case.

Ken Minns, a retired DFO research scientist, concluded that under DFO's current approach to managing small projects, the continued net loss of productive capacity appears inevitable. Under this framework no net loss is really slow net loss.

Again, currently under the proposed framework projects that avoid harm will be regulated by codes of practice and those that cause HADD will still require authorizations or permits. What's going to happen to the small projects that cause residual harm? Either letters of advice will still be issued and residual harm will still accumulate, something that's flat out unacceptable to anyone who cares about fish habitat, or thousands of small projects are going to require authorizations. I assume when I say that some of you, and certainly our industry partners, are thinking, "God, these guys want DFO to authorize everything". Trust me, that's not the case. Authorizing all these small projects would create a massive bureaucracy. It would create delays, uncertainties, costs, and liabilities for proponents, and it would really only produce questionable environmental benefits. A whole bunch of tiny one-off offsets are unlikely to address the real restoration priorities that we have in Canada. There are definitely better ways to solve this problem.

One solution is to set up an alternate permitting process for small projects, where proponents can register online and receive a permit automatically—no delays, no uncertainty. The permit conditions would have to be enforceable. They would have to require that proponents first avoid, then mitigate harm, following best management practices, and this process would have to be accompanied by random audits to ensure that proponents are accountable and evaluate the effectiveness of the system. Overall, this would definitely be more efficient and it would allow DFO to assess cumulative effects, but we still need to address the residual harm from these projects.

There are several ways to do this that would be better for fish habitat than individual offsets. Big proponents might simply be able to use credits from their own existing habitat banks under the new habitat banking framework, but that leaves small proponents and private landowners out in the cold.

● (0955)

These proponents need to be able to purchase credits from existing habitat banks. For that, we need an amendment to enable third-party habitat banking, or DFO could collect a fee in lieu of an offset and pool these fees in a dedicated fund similar to the environmental damages fund. This could later pay for meaningful, high-priority restoration projects in the same service area, but again, an amendment is needed to enable this tool.

Finally, it might be even be possible to include specific requirements for compensation activities for some project types in the permit conditions, or possibly under codes of practice, as long as these conditions were enforceable. These recommendations are outlined in our brief. We also support recommendations made by Ecojustice on this issue.

Generally, though, we're open-minded to any alternative solution that solves this problem, and need to emphasize that this is the primary modern safeguard that needs to be established under Bill C-68.

The Chair: Thank you, Dr. Lapointe and Dr. Browne.

We are now going to go to Mr. Bloomer from CEPA, please, for 10 minutes.

Mr. Chris Bloomer (President and Chief Executive Officer, Canadian Energy Pipeline Association): Good morning, everyone.

Thank you for the opportunity to provide additional comments on this bill. I represent the Canadian Energy Pipeline Association.

I have some quick comments. Over the last two years, CEPA has committed fully to participating in consultations, discussions, and round tables on the government's review of the Fisheries Act, CEAA 2012, NEB modernization, and the Navigation Protection Act. CEPA provided over 200 pages of submissions and practical recommendations that were intended to help to achieve clarity and certainty and restore trust in the regulatory system for all stakeholders.

Throughout the process we have advocated for legislation that would be founded on science and fact-based decision-making, and we have leveraged the considerable and established expertise of the National Energy Board. We sought legislation that would achieve clarity, certainty, and predictability, while avoiding duplication.

Before I speak to Bill C-68, CEPA would like to reaffirm that we remain extremely concerned about the changes put forward in the impact assessment act, Bill C-69., and we emphasized our concerns at the standing committee studying that bill. We have recently provided the government with detailed recommendations on amendments to the bill and we hope that changes will be made.

With respect to Bill C-68, our concerns are less profound and mostly related to details that are simply unknown at this point. We recognize that the proposed amendments in Bill C-68 are essentially a return to the pre-2013 approach to fisheries regulation, with added elements such as gender analysis, indigenous traditional knowledge, and community knowledge.

The effect of these potential changes is to increase regulatory burden, complexity, and uncertainty. The impact will very much depend on the approach to implementation. To put it another way, the mischief is in the details. Numerous regulations need to be developed, including the designated project list, timelines, habitat banking, and how authorizations or permits may be amended, suspended, or cancelled. These regulations will require significant consultation with stakeholders and at this point the details are unclear. We need to understand how Bill C-68 will be implemented. This includes an understanding of how advisory panels will work, the public registry, cost recovery, time limits for authorizations, habitat banking, and how gender analysis works within the context of the Fisheries Act.

We need to understand what groups and organizations could be considered an indigenous governing body, and we need to understand under what circumstances equivalency provisions will apply. We don't know how indigenous traditional knowledge will be considered and weighted. We simply do not have any clarity on any of these issues.

Although we have many questions, I would like to use the remaining time to focus our comments on four areas of concern that are of the highest priority to the pipeline sector.

First, there is the designated project list. Bill C-68 contemplates different processes for major projects than for smaller, routine projects. This, in and of itself, can be positive, allowing for more streamlined procedures for routine projects that have minimal impacts and known mitigation practices and upon which there is a large body of best practices that have been employed. However, we do not know what will be on that list or how it will be developed. Therefore, we strongly suggest that this legislation should not be passed in Parliament without the understanding of what the designated project list regulation will look like.

Second, we are concerned about how standards and codes of practice will be implemented. Proposed section 34.2 of Bill C-68 allows the minister to establish standards and codes of practice that may provide formal guidance for small routine projects. We consider this to be positive, if implemented in a practical manner. For more than 60 years, CEPA member companies have operated pipelines across the country, currently operating approximately 119,000 kilometres of pipelines, and they have constructed thousands of watercourse crossings. Because of this history, the environmental and socio-economic effects of building pipelines are well understood, and over the years best practices and standard mitigation methods have been developed and implemented. Having standards and codes of practice are of utmost importance to our industry. We require certainty and predictability during the permitting process. The codes of practice can provide that. Without codes of practice, our industry could be buried in time-consuming, uncertain approvals being needed for low-impact activities.

● (1000)

We are encouraged by the recent work done in collaboration with the Department of Fisheries and Oceans and scientists to prepare watercourse-crossing guidelines for pipelines. The guidelines, known as the fish and fish habitat impact assessment tool, could be one of the first standards referenced under the new legislation. In addition to input from DFO, the science underlying this guideline was reviewed by the Canadian science advisory secretariat using the highest, most rigorous scientific standards. The model used to prepare this guideline could be used by other industries.

Third, in terms of amending, cancelling, and suspending authorizations, a third area of concern is related to section 43. This section enables regulations to be developed whereby the minister or any other member of the public may request an amendment, suspension, or cancellation of an authorization or permit at any time. The rationale for this provision is unclear, and it creates uncertainty where there should be certainty. CEPA strongly suggests that this provision be removed from the legislation.

My fourth point relates to the National Energy Board, or the future Canadian energy regulator, and the role that the new CER will play in Fisheries Act authorizations.

In 2013, DFO and NEB signed an MOU, and that gave the NEB responsibility for initial review of Fisheries Act authorizations for NEB-regulated pipelines. Under the MOU, the NEB will assess the potential impacts on fish and fish habitat for pipeline watercourse crossings, and determine whether mitigation strategies are needed. If there are serious impacts, the NEB informs DFO and DFO will then review and be responsible for any authorizations, just like any other application. However, the NEB does the initial work to determine whether there are impacts. If there are none, the project applicant does not have to make a separate application to DFO.

Essentially the process triggered by the MOU avoids having two departments perform the same assessment. It avoids the duplication that drives more costly processes with long timelines. We are encouraged that Bill C-68 enables the sort of MOU that is currently in place with the NEB and DFO. To this end, CEPA recommends that the current MOU between the NEB and DFO be maintained.

In conclusion, CEPA recognizes that keeping water bodies and fish habitat protected is of utmost importance to Canadians, including pipeline operators, but we must also maintain a regulatory framework that provides clarity and certainty, avoids duplication, and further builds on the wealth of technical knowledge and best practices already in place to achieve our desired outcomes and ensure Canada's competitiveness.

Thank you very much. I look forward to questions.

The Chair: Thank you, Mr. Bloomer.

We are now going to the Seafood Producers Association of British Columbia, with Chris Sporer and Christina Burridge.

Good morning. I hear you've been there since very early this morning, so thank you for taking the time to appear before us again this morning.

You have 10 minutes and you can go ahead any time.

● (1005)

Ms. Christina Burridge (Executive Director, BC Seafood Alliance, Seafood Producers Association of British Columbia): Thank you very much, everyone. We really appreciate the chance to be here. I'm going to start and then Chris is going to follow.

I'm here for the B.C. Seafood Alliance. That's the most representative fishing organization on the west coast, mainly representing commercial fishermen up and down the coast in virtually every major fishery on this coast. Chris is here for the Seafood Producers Association of B.C. That's the largest processor organization on the west coast. His members are big players in salmon, herring, groundfish, and many specialty products. If you like, we're two sides of the same coin. Our members are the people who bring food to Canadians and to the world.

We are broadly supportive of the habitat provisions. These were subject to very thorough consultation. We have four points we would like to make about the non-habitat provisions. We want to propose an amendment to the "Purpose" section. We want to make some comments on changes to indigenous participation and co-management. We want to make some comments on the confidentiality of traditional knowledge, and we want to close by emphasizing that stability and predictability in licensing policy and the management framework are essential to all participants in the industry, including indigenous peoples.

In terms of amending the purpose, in our view the current text does not provide a purpose. It only provides tools. The purpose itself needs to be defined as it is in, say, the New Zealand Fisheries Act and in other common property jurisdictions. We propose that proposed section 2.1 should read, "the conservation and sustainable use of fish and fishery resources through the proper control and management of fisheries and the conservation and protection of fish habitat, including preventing pollution."

Moving on to indigenous participation and co-management, the right to manage fisheries resides in the minister and cannot be downloaded to others except in very clearly defined ways. Parliament should be careful that it is not giving unconstitutional powers to the minister to delegate management to indigenous organizations. A patchwork of separate management authorities for fisheries on the west coast would be disastrous for conservation and the use of the resource by all Canadians. There must be a single manager.

Further to that point, the recent Ahousaht et al decision on the west coast confirms that while the nations have a right to fish and to sell fish, that right applies only in a very narrow area and is not unrestricted, not exclusive, not industrial, and it does not provide a guaranteed economic baseline. The judgment also says that bilateral negotiations of what the right means in practice are unacceptable. That's because DFO does not represent the interests of the other sectors such as commercial and recreational fisheries, and those interests must be included.

The judgment also says that voluntary relinquishment—that's willing buyer, willing seller transfer of licences—is the best means towards reconciliation in the fishery, and it stresses that reconciliation is a national endeavour, not only to be borne by the commercial fishing families, and that it cannot be achieved without the involvement of all interested parties.

Indigenous participation in the west coast fishery is already strong. We expect it to grow, and that's a good thing. Roughly one-third of all licences are held by indigenous individuals or organizations so any changes to fisheries management or licensing policy will affect them as well as others.

We do have concerns about the confidentiality of any traditional knowledge. We believe this needs to be narrowed, especially in the light of the Ahousaht et al decision. The recent decision by the minister, based on confidential bilateral negotiations to suspend the central coast herring fishery in the interest of reconciliation, despite the recommendations of peer-reviewed science, cost communities up and down the coast about $12 million for what would have been a two-day fishery.

Lastly, with regard to stability and predictability, the tabling of enabling provisions regarding licensing policy and social policy has already been destabilizing with millions of dollars of investment on hold on both coasts. It's scaring young people out of the industry or making them question whether they want to enter.

● (1010)

Without secure access, there is no incentive to invest in new vessels, new gear, new markets, or new products. Worse, there is no incentive to invest in the resource, and many of our fisheries contribute $1 million or more, for each fishery, to DFO science every year.

Unlike the habitat provisions, these changes to the act were made with minimal consultation, and in our view, have been rushed through with little opportunity for input.

I will just close by saying that fishing interests must be fully and comprehensively engaged in the development of regulations.

I'll pass it over to Chris.

Mr. Chris Sporer (Executive Director, Seafood Producers Association of British Columbia): Thank you.

We know you have heard many things about B.C. fisheries, but it is important to understand the context, and what we would like to do is provide that context.

I sent six slides over. I don't know if the committee members have been shown them, but when the committee members do get a chance to look at them, they'll see that the differences between landed values in Atlantic Canada and Pacific Canada. It shows the fisheries in the two regions are very different. In Atlantic Canada there are fisheries that have landed values in excess of $500 million. In contrast, the most valuable fisheries on the Pacific coast are in the range of $30 million to $50 million.

The industry has experienced some profound change over the past 30 years. In inflation-adjusted terms, the landed value today is just over half of what it was 20 years ago. Landed value has fallen from an annual average of about $720 million to $385 million. The commercial salmon and herring fisheries are now a fraction of what they once were. Salmon, for example, used to generate 48% of the total landed value but today accounts for only 17%. Groundfish and shellfish fisheries have grown in importance and today account for 34% and 37% of total landed value, respectively.

Looking at the salmon fishery, commercial salmon landed weight and value have declined over time. Landings have dropped by 69%, while value has dropped by 81%. We have seen changing ocean conditions and reallocations to first nations in-river fisheries and to the recreational fishing sector. That has reduced the amount of salmon available to commercial harvesters. At the same time, conservative management has been adopted, and harvest rates have been reduced, from 70% or 80% to 30% or 40%, as we move to protect weak stocks.

These reduced harvest levels, combined with increased competition in world seafood markets, particularly from Alaska and farmed salmon production, have resulted in reduced annual landed values, declining by 81% compared with what we saw in the early 1990s.

The roe herring fishery shows a story similar to salmon. Lower ocean productivity and conservative management have reduced harvests. This fishery, before management changes to bring in more conservative management, used to significantly exceed allowable harvest limits, but these new management measures introduced in 1997 have done a better job of bringing harvests in line with allowable catch limits. These reduced harvests combined with the collapse of the Japanese "bubble" economy—Japan is basically the only market for this product—have resulted in a significant reduction in the value generated from this fishery, an 88% drop from what was seen in the early 1990s.

Moving on to the groundfish fisheries, groundfish has also seen a decline in landed weight as more conservative management has been adopted. Our groundfish fisheries have moved, from fisheries where overharvesting occurred and there was rampant at-sea discarding and misreporting of catch, to fisheries today that have 100% at-sea monitoring and 100% dockside monitoring and full accountability of all the catch, regardless of whether it was retained or released at sea.

These management changes, while they have provided significant conservation benefits that have resulted in a reduced harvest, have allowed more value to be extracted from the resource. Harvesters are now able to provide the market with year-round or almost year-round fresh product instead of frozen product. They are extracting more value from a pound of fish.

Turning to the shellfish fisheries, these have also seen a decline in landed weight, and again it is due to adoption of more conservative management. Their landed value has actually increased. Management changes in the dive fisheries, similar with what we have seen with groundfish, have allowed more value to be extracted from the catch, and the spot prawn and crab fisheries have developed new markets and grown in importance.

On the Pacific coast we have moved to more conservative management, which has significantly reduced harvests and, therefore, also the value of the fisheries. In the past these fisheries were unsustainable. We were overharvesting—

● (1015)

The Chair: Thank you, Mr. Sporer. I have to cut you off there. That's the 10 minutes, and we have to go to our first round of questioning.

For the first five minutes, we have Mr. Morrissey, please.

Mr. Robert Morrissey (Egmont, Lib.): Thank you, Madam Chair.

My question is for Ms. Burridge.

In your comments, you referenced the need for stability and predictability in the licensing policy. You referenced social policy as a part of licensing conditions, and that it was scaring young people from the industry. We had, in a previous meeting, several young B.C. fishers present to the committee. Their concern was the lack of protection of owner-operators within the B.C. fishery.

You claim to represent more than 90% of the commercially harvested seafood. How does that relate to the actual number of fishers who harvest?

Ms. Christina Burridge: I represent associations, basically harvesting associations in the major fisheries, so their members would be the actual fishermen who harvest fish. Broadly speaking, I think we've definitely seen a chill at every level, from harvesting to processing. It was started, I suppose, by the Clearwater decision, where it appears that the stability that everyone thought they had in their licence—that it's basically evergreen because it will be renewed each year—is simply not there anymore. No one can run a business if their livelihood might be taken away from them.

Mr. Robert Morrissey: My question is from the perspective of the independence of the inshore fisher and the owner-operator provisions of the bill. This was the area where we heard substantive testimony from young fishers who are concerned that the model on the west coast is not protecting the communities that depend on the fishery, that it is not protecting the independence of the fisher, that there is too much focus on the corporate fishery, and that this culture is actually influencing whether people speak out on these issues or not, that they are intimidated to speak on this issue.

Could you comment on that?

Ms. Christina Burridge: Most fishermen on the west coast are, indeed, independent. I've never experienced, myself, that people in the fishery are intimidated in terms of speaking out. We certainly have plenty of examples of young fishermen who have come into the business or who have taken over from other generations. Because of the way things are currently set up, it is certainly possible for people to buy in over time in such a way that they can actually participate effectively in a range of fisheries.

I think you have to understand, given the points that Chris made about the.... We simply don't have the fish that we used to have. It is not possible for a fisherman to make a living operating in one fishery. Therefore, I think it's impossible to see how owner-operator on west coast would work.

Mr. Robert Morrissey: But owner-operator is not restricted to one fishery. The premise behind owner-operator is to protect the integrity of the core fishery, the inshore fishery, and to ensure that the ability to fish, whether it's through quota allocation or gear methodology, is kept away from the corporate sector, that there's a clear division between the corporate sector and the concern of people holding licencing and the ability to fish who are not on board the boats, who are not actually participating in the fishery.

Ms. Christina Burridge: Virtually every fisherman in B.C. operates through a corporation, so yes, you could say that corporate interests dominate. That's because that's how the fishery is structured in B.C. Individuals are corporations for tax and liability reasons.

Mr. Robert Morrissey: Yes, but is it transparent who owns the corporation? Is it transparent that the corporation is owned individually by the core fisher who has the quota?

● (1020)

Ms. Christina Burridge: Do you want to take that?

Mr. Chris Sporer: Yes, you can get, from the DFO web page, who owns which licence. You can get that information from DFO.

The Chair: Thank you very much, Mr. Morrissey. That's your five minutes.

We go now to Mr. Arnold for his five minutes, please.

Mr. Mel Arnold: Thank you, Madam Chair.

Thank you to all of our witnesses here this morning. We're going through a lot of witnesses in a short time on this study, so I'll keep my questions relatively brief and hopefully I can get questions to all of you.

For Mr. Lapointe and Mr. Browne, you use the term "residual harm" quite often. I see the reference to HADD and harm being in the bill, but not residual harm.

Would you like to elaborate on that a bit further, because I see harm in many different ways. Someone wading in a stream to go fishing could actually be harming fish habitat. Where do we define residual harm or impactful harm versus what's really temporary, minimal, and bearable?

Mr. Nick Lapointe: I think when you get to something like someone wading in a stream, streams are dynamic and they create their own habitat over time if they have proper watershed conditions, so that's easily recoverable. Riding an ATV through a stream is another matter.

But I think the examples we tried to show were that there are many clear situations right now where there's significant infilling, several square metres, even several hundred square metres of infilling, where that habitat is absolutely eliminated. Those types of projects aren't currently being compensated for by DFO or by proponents.

That's a serious concern. We would like to address those situations where there's unambiguous residual harm, and the more dynamic types of habitat shifts, I think, are another matter.

Mr. Mel Arnold: Thank you.

You also mentioned third-party habitat banking. Would you like to elaborate a little further on how you see that working, through conservation organizations being permitted to do work and sell their work basically? Would that be how you see that operating?

Mr. Nick Lapointe: Yes, absolutely.

In the U.S., it's actually consulting companies, habitat banking companies, that are undertaking that work, and it's been a quite successful model in the U.S. Certainly, we would like to see conservation organizations, like Trout Unlimited or the Nature Conservancy of Canada, who do restoration projects, be able to sell credits from those projects.

The key consideration would be that there would need to be additionality, so when you create a habitat it's not going to be the same as a natural habitat. If those conservation organizations could sell those credits at two or three to one, and use those funds to do more restoration work, we would set ourselves on a path that would both spiral our resources for restoration and also create a very efficient and easy system for proponents to buy into when they need an offset.

Mr. Mel Arnold: Just quickly, would you prefer to see that done through conservation organizations or through corporations specializing in that?

Mr. David Browne: I think a combination.

Mr. Nick Lapointe: Yes. Personally, I'm interested in seeing conservation organizations be involved in that, but we're very receptive to having both involved in third-party habitat banking.

Mr. Mel Arnold: Thank you.

Quickly moving on to Mr. Sporer and Ms. Burridge.

Can you describe, just briefly, how we got to a different situation on the west coast than the east coast, and what the circumstances are in competing at world market prices and scale of economics and so on? Could you possibly give us a little indication of how we got to where we are?

Mr. Chris Sporer: I'll take a crack at it first.

I think if you look at a lot of fisheries, where they started from there was significant overcapacity in the fisheries, so there was overharvesting and poor economic returns. For instance, in the early 1990s, among salmon fishermen who were only focused on the salmon fishery, 75% of the fleet, according to DFO reports, was basically making negative economic returns.

The industry's made changes also because of safety. Racing for the fish means vessels may be forced to fish in inclement weather, so these changes have led to industry and fishermen coming forward and saying, look, we want to change; we want to look at different ways of doing it. That's how the fisheries evolved over time. It's evolved more recently to address things like bycatch.

With respect to competing on world markets, we are a price-taker in world markets. We are a high-cost volume producer. Our biggest competitor is Alaska, just to the north of us. They catch the same fish, produce the same products, and sell them into the same markets. We have to be competitive with them or we will lose those markets.

● (1025)

The Chair: Thank you, Mr. Arnold.

I am now going to Mr. Donnelly for five minutes, please.

Mr. Fin Donnelly: Thank you, Madam Chair.

Thank you to all our witnesses for your testimony.

I'll start with the Canadian Wildlife Federation.

Dr. Lapointe, you packed a lot of recommendations into your testimony. I don't know if I'm going to get through many of them with five minutes, but I'll give it a try.

It seems from your words that fish habitat is critically important. You talked about an online registry, and from that I got the importance of the criteria or standards that would allow proponents to get their projects approved. Then you mentioned auditing.

Do you have wording or suggestions in your submission that this committee could look at to strengthen what you're talking about here?

Mr. Nick Lapointe: Yes, I think in our specific submission, we don't go into detail about either the registry or the auditing, but some of the joint submissions we're participating in with other NGOs do address that.

Ultimately, any project that either harms or has the potential to harm fish habitat should at the very least be reported to DFO so that DFO is aware of it and can assess cumulative effects, which is important. We also want them to address cumulative effects. We recognize that DFO doesn't have the resources to investigate anything but a fraction of the projects that occur in Canada, but if we're going to allow proponents to self-assess, work efficiently, and follow best practices in the water, that's excellent.

We just need to be able to make sure they're accountable. Whether that's auditing a random subset of 1% or 5% of these projects, that would provide that accountability and it would also allow us to review different classes of projects to find out where best management practices guidelines are working, where this is an effective system, and where the system needs to be resolved.

It's not all about enforcement or accountability for proponents. It's also about improving how we manage fish habitat.

Mr. Fin Donnelly: You mentioned net gain and net loss. You cited examples of scientists who are saying that we're not doing very well on the west coast in terms of net gain of habitat. In fact, we're doing a net loss, and they're predicting more of the same unless we change. Is that a focus on monitoring? What's going to improve it?

Mr. Nick Lapointe: Yes, it needs to go beyond monitoring. We need to make sure that, with all these small projects that cause harm, the harm is addressed by some mechanism, and we're pretty open-minded as to how that will prevent that loss.

The other challenge is that, for larger projects, any situation where there is an offset, to date, DFO has been allowing 1:1 ratios or even smaller than 1:1 ratios. All of the science we have reviewed on habitat offsetting requires additionality. It may be 2:1. It may be 5:1. It's situationally dependent, but there's no science. There's been no research produced to date that suggests that a 1:1 ratio will make up for the loss of a natural habitat. That's simply because we're only learning now how to restore habitats, and we will never restore them with the same capacity as what was there before, certainly not in the scientific perspective on average. We need to ensure that those ratios are fixed with a minimum of greater than 1:1 to make sure we achieve no net loss and, ideally, net gain.

Mr. Fin Donnelly: Finally, on habitat banking, I am concerned about destroying one watershed completely, and then looking at enhancing another watershed in a different system, maybe even to overcapacity. How do we avoid that through this habitat banking system?

Mr. Nick Lapointe: These questions have come up at the committee before, and they're important questions. I think we need to have a broad cross-sectoral discussion about what those service areas are, ensuring within an ecosystem or a watershed a certain scale of watershed where that is allowable.

Certainly you don't want to get into a situation where you've completely lost one resource and replaced it with another. At the same time, we sometimes have situations where works are happening in completely pristine watersheds, and the offsets we're doing aren't particularly effective or necessary. In an adjacent watershed, there might be greater benefits.

There are no absolute answers there. Ideally, a habitat bank within Lake Ontario could be used to sell credits to somewhere else within Lake Ontario. That might be a good example.

● (1030)

Mr. David Browne: Do I have time to add to that?

The Chair: You have 20 seconds.

Mr. David Browne: I would just add that the request we're putting forward is that you enable the act to provide for third party banking. The process and the way Canada rolls out a policy for doing that is definitely going to be a phased-in approach. It's going to involve learning from other jurisdictions and deep conversations and engagement with the provinces.

The Chair: Thank you, Dr. Browne. I'm sorry, but I have to cut you off there.

For the next five minutes, we'll have Mr. McDonald, please.

Mr. Ken McDonald (Avalon, Lib.): Thank you, Madam Chair.

Again, thank you to our witnesses, both here in person and by video conference.

I want to continue a little bit with the line of questioning of my colleague Mr. Morrissey regarding the owner-operator issue within the fishery.

I come from Newfoundland, as far east as you can get. Our fishermen are lobbying, or whatever they do, to make sure owner-operator exists and is managed properly. Right up to the FFAW, which is the union that represents all the fishers in the province, they want it included as well because it's so important to the sustainability of the fishery, as it is community-oriented and a benefit to the community.

We heard from at least five young fishers from the B.C. area here at committee in the past couple of weeks, and each one of them had a problem. You're entrenching owner-operator on the east coast, but you're leaving them to their own means on the west coast. They said the issue of trying to get into the fishery was very difficult, very expensive to get a quota, but they can fish a quota for somebody who sits on the 32nd floor of an office tower somewhere and only get a fraction of the value of that quota. In listening to what you're saying, the fishery is different and is owned by corporations. Everybody has a corporation. The fishermen in Newfoundland have corporations as well, but the individual quota is in the fisherman's name. He sets up a corporation. When he sells his catch at the end of the day or week, it's paid to the corporation. He takes his paycheque and the crew take their paycheques from the corporation. It's done, as you say, for tax purposes.

Why wouldn't that work on the west coast?

Ms. Christina Burridge: It wouldn't work simply because we don't have the fish that Atlantic Canada has. That's why our fisheries have developed in really different ways. In order to solve those problems of sustainability and conservation, we have developed a system that relies on leasing, because you have to have quota to cover bycatch.

It's very difficult for me to see how we could maintain these cutting-edge, world-leading conservation systems and go to owner-operator. For instance, if you look at the halibut fleet, if you were to go to owner-operator, given the tiny volumes of halibut we have access to, each fisherman would get one trip a year. That's not a viable way to run a fishery.

Mr. Ken McDonald: You say the value of the fishery on the east coast is much higher, but when you look at the landed salmon value on the west coast, the value of the shellfish industry, there's quite a bit of money, I think, to be made at the fishery on the west coast. I think there is great value there, and I think individual fishermen would certainly like to see it that way.

I'll change a little bit now.

You mentioned the Clearwater issue with the surf clam. Do you believe that any one entrant in a fishery should have control of the entire quota?

Ms. Christina Burridge: I think in some cases that is certainly justified.

It's my understanding that Clearwater developed that fishery from scratch and did it with their own money. I believe they also have long indicated some willingness to find ways to bring indigenous people into the business.

Yes, I think it is possible in some fisheries. I don't think it should be the case in all fisheries, though.

Mr. Ken McDonald: On that particular one, I'll have to disagree with you. Developing the fishery in one area, when it's already developed in another place in the world, doesn't come with the expense it would if it were a brand new fishery in the world with you having to develop the market. Some of the markets were already developed.

To Dr. Lapointe, I guess, and Dr. Browne, you mentioned that habitat is habitat, regardless of where it is. We heard from agricultural associations about, for example, a farmer who puts in a drain and all of a sudden has trout and habitat in that drain. Should he be restricted to what he can do on that man-made drain that services his farm and keeps it working the way it should? Are you saying that he shouldn't be able to do what's necessary to that without permission?

● (1035)

Mr. Nick Lapointe: It depends on the drain, really.

Lots of farm drains are first- and second-order drains. They can be cleaned without harming habitat, and there's no residual harm. We have lots of room to support farmers in not requiring authorizations and undue process.

But there are drains that have species at risk. There are drains that have habitat. Sometimes those drains are converted natural watercourses.

The Chair: Thank you, Dr. Lapointe.

We'll now go to Mr. Miller for his five minutes.

Mr. Larry Miller: Thank you, Madam Chair.

Thanks to all the witnesses.

Just on that last point, Mr. Lapointe, I'm glad to hear you agree that there are some drains where you shouldn't have to go through the process, but prior to the changes in the Fisheries Act, before 2012, that was not the case. It was absolutely ridiculous, so thanks for recognizing that.

Ms. Burridge, you talked about the non-habitat provisions. I think you said that they must be amended. You also made the comment that it doesn't provide for provision, and you mentioned a New Zealand example. Could you expand a bit on all those three points?

Ms. Christina Burridge: New Zealand's Fisheries Act is really clear that the purpose of the Fisheries Act is sustainable use of fish and fisheries resources for economic, social, and cultural benefits. I think what we have in the "purpose" section as drafted here is simply the tool—the proper control and management of fisheries. You do that to an end. I believe the actual purpose needs to be specified here.

Mr. Larry Miller: Okay.

You also talked about the minister's powers to do with indigenous fisheries. You made a statement that DFO does not represent well, or at least that's how I took your comment, the recreational and commercial fisheries. Can you expand on that?

Ms. Christina Burridge: Indeed. Madam Justice Humphries was the judge in the Ahousaht et al case, and those were her words: "DFO does not represent the interests of other [fishing] sectors." That's because it's fundamentally in a conflict of interest. It has a fiduciary responsibility to first nations. At the same time, it's also supposed to represent the interests of third parties, and it can't do it.

The judge was very clear that there must be direct engagement by those other fishing sectors—commercial and recreational.

Mr. Larry Miller: Would you agree, then, that the way that the surf clam licencing was dealt with, where basically the minister took it and gave it to some of his friends, is an inappropriate way, or a wrong way, to deal with licences and transfer of licences—not a willing seller, willing buyer concept?

Ms. Christina Burridge: I think the judge again was very clear that willing buyer, willing seller is in the best interests of all Canadians, including indigenous peoples, and that did not happen in the Clearwater case.

Mr. Larry Miller: Absolutely. Thank you.

Mr. Bloomer, you talked about proposed section 43. I'd like you to enlarge on that and on what you see as maybe some problems with it.

Mr. Chris Bloomer: Proposed section 43 has to do with regulations and the ability to cancel, with any kind of intervention, an authorization or a permit that's already in place. It seems in this proposed legislation that, at any time, somebody could step in and intervene. The authorization or the permit could be stopped. That's kind of an open-ended question that we have concerns on.

Mr. Larry Miller: Do you have a specific example of where that has happened, or are you just afraid of what could happen?

Mr. Chris Bloomer: We're afraid of what could happen. There are lots of things in the proposed legislation that deserve clarity, and this is one of them. It's a pretty open-ended ability to intervene. Once something is approved, it becomes "unapproved", let's say, because of an intervention. That's not certainty.

● (1040)

Mr. Larry Miller: What would you recommend to close the "open-ended", to use your word?

Mr. Chris Bloomer: One way is to not have that ability, straight up, and recognize that with respect to pipelines, for sure, those conditions on those permits and authorizations are regulated by the NEB. They're assessed by the NEB through the life cycle of the pipeline. If there are issues, the oversight of that, going forward, will be through the NEB. Once that's been granted, there's not really a need to have the ability to withdraw it because of an intervention. It is regulated through the life cycle in the case of pipelines

The Chair: Thank you, Mr. Bloomer.

We're now going to go to Mr. Donnelly for the final five minutes.

Mr. Fin Donnelly: Thank you, Madam Chair.

I just wanted to pick up on my colleague, Mr. Morrissey's question to Ms. Burridge about representation of the B.C. Seafood Alliance.

Ms. Burridge, you mentioned you represent most of the seafood producers on the west coast. I'm wondering about the 5,800 crews, the 4,500 shore workers, the 2,300 vessel operators, the 26 first nation commercial fishing enterprises, the 325 processors, the 2,325 licence holders, the more than 100 first nation fishing communities, the more than 150 coastal communities, and the 65 fishing organizations, including labour and species and gear. Would you say you represent a majority of those folks?

Ms. Christina Burridge: I said that we represent 90% of the value that comes from the people who harvest fish. My members, as I mentioned, are mainly fishing associations, so they are licence holders.

Mr. Fin Donnelly: It's essentially the money, not the people.

Ms. Christina Burridge: Those are people. They employ people, and they provide good jobs up and down the coast.

Mr. Fin Donnelly: Are you saying you represent 90% of the people, then?

Ms. Christina Burridge: I'm saying we represent 90% of the value that's harvested.

Mr. Fin Donnelly: Is the value not mostly money?

Ms. Christina Burridge: It's the landed value, the wholesale value.

Mr. Fin Donnelly: Okay.

Is the Pacific group part of the membership?

Ms. Christina Burridge: Not directly, no.

Mr. Fin Donnelly: How many of the 325 licence processors are members?

Ms. Christina Burridge: Very few of them are members

Mr. Chris Sporer: Our organization represents the processors. We're a seafood processing organization. We are associate members.

Mr. Fin Donnelly: How many on Haida Gwaii or the central coast are involved in your organization?

Mr. Chris Sporer: One of the companies that is on Haida Gwaii is a member of our association.

Mr. Fin Donnelly: Okay, one. Thank you.

I have another question here for Mr. Bloomer.

Mr. Bloomer, you talked about the National Energy Board and their role and their responsibility for reviewing impacts to fish and fish habitat. Do you feel the NEB is qualified to review impacts to fish and fish habitat?

Mr. Chris Bloomer: Very quickly, the NEB has been assessing and regulating this for a long time. They have scientists and qualified people who have reviewed this over a long time and have worked with DFO over that period. One of the issues was that there had been duplication of effort in the past, and it's a recognition under the MOU that there are shared capabilities and there are long-term best practices. That MOU with the DFO is very important. It recognizes that the NEB does have the requisite scientific knowledge and experience, and it's also the life-cycle regulator. It's a nice synergy to have that, and when things that have material impacts on habitat go through that process, the DFO does get involved and it is assessed properly.

However, for the main part of what's done—which is known and has best practices—the NEB is very well positioned and has the requisite scientific capability.

Mr. Fin Donnelly: Thank you.

In the remaining time I'd like to ask the Canadian Wildlife Federation the same question about the NEB being an appropriate body to review fish and fish habitat impacts. Does your organization have a comment on that?

● (1045)

Mr. David Browne: That was a recent change. We were concerned when that change was made because we weren't sure that the NEB had the expertise to be doing that. I remember an intervention.... I guess I would say that we're not in a position to say exactly where we are on it, but our concern is around the capacity of NEB to do that appropriately. I know the idea was that there would be a lot of exchange between DFO and the NEB to make sure that the review is comprehensive, but there are problems with reviews generally, both within the department and outside, in terms of competency.

The Chair: Thank you.

That would conclude our meeting for today.

I want to thank Dr. Lapointe, Dr. Browne, Mr. Bloomer, Chris Sporer, and Christina Burridge. Thank you very much for your testimonies today.

The meeting is adjourned.

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